

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON DC 20268-0001

Clarksville Post Office
Clarksville, New York 12041

Docket No. A2011-81

PUBLIC REPRESENTATIVE'S REPLY COMMENTS

(December 1, 2011)

I. INTRODUCTION AND BACKGROUND

Petition and notice of intervention. This case concerns an appeal of the Postal Service's decision to close the Clarksville, New York post office and to provide rural delivery and retail services out of the Feura Bush post office, located 5 miles away. An appeal of the Postal Service's decision to implement this change was filed by Peter Henner on behalf of himself, the Town of New Scotland, and 36 other patrons of the Clarksville post office.¹ The Commission accepted the appeal in Order No. 870, September 23, 2011 (Order No. 870).²

The Albany County Sheriff's Office filed a notice of intervention. Therein, Acting Sheriff Craig D. Apple notes the Sheriff's Office intention to relocate many of its

¹ See Petition to Review Determination to Close Post Office, September 21, 2001 (Petition). The Town of New Scotland, one of the petitioners, asserts the interest of individual residents of the Town who are served by the Clarksville Post Office under the doctrine of *parens patriae*. Petition at 3. The Petition incorporates a request for suspension of the effectiveness of the determination until final disposition of the appeal. See Petition at 2 and 18-19.

² Order No. 870 appears at 76 FR 60561 (September 29, 2011).

operations from the City of Cohoes to Clarksville.³ These operations, which the Sheriff's Office anticipates conducting out of the former Clarksville Elementary School, will be co-located with the Albany County Emergency Operations Center, Albany County E-911 Communications Center, Albany County Emergency Medical Services Office, and Albany County STOP-DWI Office.⁴ The relocation is expected to result in the presence of 70 full-time and 70 part-time employees at the Sheriff's Office Clarksville location. See Notice of Intervention at 1-2.

Current and proposed operations. The Clarksville Post Office currently provides service to 214 post office box customers and one permit or meter customer.⁵ There are, on average, 31 daily retail window transactions as determined by a two-week survey. AR Item No. 47 (Final Determination) at 8. The postmaster retired on March 31, 2010. In line with the Postal Service's policy of reviewing offices when a postmaster vacancy arises, the Albany District Manager submitted a request for authorization to investigate a possible change in postal services for the office this past February. AR, Item No. 1. He gave two reasons for the request: the postmaster vacancy and management's interest in whether regular and effective service can be provided through alternate means. *Id.*

Financial considerations. Office receipts at the Clarksville Post Office have declined over a recent 3-year period: revenue was \$80,569 in FY 2008; \$74,195 in FY 2009; and \$65,391 in FY 2010. AR Item No. 47 at 2. The Postal Service estimates that closing this office will generate annual savings of \$26,521. *Id.* at 8. This is based on an EAS-13 postmaster's salary and benefits (amounting to a combined \$48,569) and

³ Notice of Intervention of the Albany County Sheriff's Office, October 18, 2011 (Notice of Intervention).

⁴ A respondent to a questionnaire states that the Clarksville Elementary School is located a block from the Clarksville Post Office. AR Item No. 22 at 137.

⁵ The Final Determination appears as Item No. 47 in the Administrative Record. The Postal Service filed the Administrative Record (typically cited in this filing as "AR") as an electronic record with the Commission. The AR and other documents filed in this case can be accessed via the Commission's website at <http://www.prc.gov>.

\$10,382 in lease costs, minus \$32,430 in annual costs for replacement service. *Id.* at 7 (and AR, Item No. 17 at 2, line 8).

II. STANDARD OF REVIEW AND APPLICABLE LAW

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). The Commission is aware of this provision and the standards that apply to its review of appeals of post office closing decisions. These Reply Comments therefore incorporate by reference the recitation of standards and law in Commission Order No. 974 at 6 (Part V) in Docket No. A2011-34, *Innis*, Louisiana.

In many of its decisions, the Commission has encouraged the Postal Service to improve its economic savings estimates. Recently, the Commission has provided some specific guidance regarding its expectations about the scope and nature of the Postal Service's assessment of the record. In *Innis*, the Commission noted (among things) that the record revealed contested claims about the number of businesses and expected growth, and remanded the case for further consideration. In Docket No. A2011-4, *Monroe (Arkansas) Post Office*, the Commission addressed the impact of an emergency suspension and other matters, including the absence of an estimate for the cost of replacement service. It also remanded this case. Order No. 982, November 18, 2011. These decisions provide a useful focus for the efforts of the Postal Service and postal patrons in "A" cases.

III. PARTIES' POSITIONS

A. The Petitioners' Position

In addition to a lengthy Petition, Petitioners also filed a brief and reply brief.⁶ These Filings likely qualify, in almost all respects, as the most detailed and comprehensive materials submitted by a group of postal patrons in the history of “A” dockets. While this is significant in itself, the Filings are especially important because they make a convincing case for:

- expanding the concept of what should be included in the Postal Service’s consideration of “the effect on the community” beyond the norm, which largely has been limited to retention of the community name and ZIP Code;
- increasing the transparency of key financial assumptions affecting a post office’s fate, such as the Postal Service’s estimate of the cost of replacement service and revenue calculations;
- exploring whether the two-week surveys the Postal Service relies on provide a reliable basis for decisionmaking in these situations;
- requiring more accountability, on the part of Postal Service management, for the accuracy of the record and its response to customer concerns that raise community-specific or non-standard issues.

The Petitioners’ position is that the Commission should overturn the Postal Service’s determination because it is arbitrary, capricious and an abuse of discretion. This is based on their conclusion, following a systematic and thorough review of the Administrative Record, that the Postal Service has failed to meet its statutory obligation to consider the effect of the a closing on the Clarksville community and the closing’s

⁶ Petitioners’ Brief, October 25, 2011 (Brief) and Petitioners’ Reply Brief, November 29, 2011 (Reply Brief). These, along with the Petition, are sometimes referred to collectively as “Filings” or “Petitioners’ Filings.”

consistency with section § 101(b)'s policy that the Postal Service shall provide "a maximum degree of effective and regular service to rural areas, communities, and small towns where post offices are not self-sustaining." See Petition at 2.

In support of their position, the Petitioners address, and often provide concret examples, of the social, pragmatic, economic, and environmental impacts of the closing on the Clarksville community. Petition at 9-10. These include, among others, loss of a community meeting place; exposure of medication or other temperature-sensitive items to the elements; travel over roads in that can be dangerous in winter; seniors' access, especially for those who no longer drive; and the expense of driving to the replacement office for those that still drive both in terms of automotive operating expenses and the environment. The Petitioners, for example, estimate (based on stated assumptions) that patrons would spend \$40,000 for gas to make the trip to Feura Bush and \$137,500 at the IRS allowance of 55 cent per mile. Petition at 11; Brief at 11-12.

The Postal Service traditionally has not factored this type of impact include any offset of its savings estimate for "exogenous" factors, such as the cost patrons will incur will incur in traveling to another office and changing addresses on business stationery, but the Petitioners demonstrate how these expenses could legitimately be tied to the adequacy of the Postal Service's consideration of "the effect on the community."

Petitioners also assert that the replacement rural route service is not a viable option — and thus not "effective" service — for many of businesses for security reasons; because a signature is required and delay in providing one would be detrimental; due to the need to send large quantities of mail at one time, such as newsletters or membership mailings. Petition at 9-10; Brief at 11.

Alleged deficiencies associated with the questionnaire. Petitioners assert that the Postal Service's overall analysis of the questionnaire responses is faulty because it undercounts "unfavorable" positions. They also claim that the questionnaire appears to have been employed simply to justify "a preordained decision" to close the Clarksville

Post Office. In support of this contention, they note that every individual who returned a questionnaire raising a particular issue receiving the same form response. This leads them to conclude that individual issues and concerns were, for the most part, not considered by the Postal Service or, at the very least, were plainly not referenced in the answers. Instead, only those who submitted a letter received an individual response. Brief at 12.

Financial analysis. Petitioners take issue with the Postal Service's use of a postmaster's salary as a reference point instead of that of the OIC in its financial analysis and the fact that the postmaster's retirement triggered the review and the retirement is being used to justify the closing. *Id.* at 14. Moreover, they assert that the estimated savings should be weighed against the costs the community will incur (which, as indicated above, they estimate at \$137,500 in mileage alone). *Id.*

They also express concern that the survey used for the workload analysis was down during a relatively slow time of year and that the identification of businesses and organizations was wrong (too low). *Id.* at 14-15. They claim that these factors, among others, lead them to conclude that the Postal Service did not consider the input it received from the community, and particularly from businesses and civic organizations, asserting that the impacts of the closure would be far more severe than the Postal Service wanted to acknowledge. *Id.* at 16.

B. The Postal Service's Position

The Postal Service asserts that the appeal of its decision to close the Clarksville Post Office raises three main issues: the effect on postal services; the impact on the Clarksville community; and economic savings.⁷ It then provides standard responses to many of these issues, and addresses some of the more specific concerns the Petitioners raise in footnotes. For example, footnote 5 on page 3 of the Postal Service Comments refer to the timing of the survey; footnote 6 on page 4 addresses Petitioners' contention that its assessment of the overall position of respondents to the closing was erroneous; footnote 7 on page 4 defends against the "form response" allegation. Footnote 13 on page 8 appears to constitute the Postal Service's entire response to the assertion that the business community was undercounted. The Postal Service concludes that the advantages of closing the Clarksville Post Office outweigh the disadvantages, and requests that its determination to close the Clarksville Post Office be affirmed. Comments at 8.

IV. PUBLIC INTEREST ISSUES

Many of the issues raised in the Petitioners' Filings coincide with the interests of the general public. The undersigned is confident the Commission will give the Petitioners' perspective on the Postal Service's approach to the post office closing process full consideration. Their Filings succeed in providing a "bird's eye view" on postal patrons' experience in the Clarksville situation within the broader context of congressional intent, the Postal Service's administration of "A" cases, and recent Commission decisions. Their position can be understood as an assertion that the Postal Service's conventional approach is overly narrow in key respects. This

⁷ United States Postal Service Comments Regarding Appeal, November 15, 2011 (Postal Service Comments).

narrowness diminishes patrons' due process rights. The Petitioners' Filings also clearly indicate the keen interest many patrons take in their local post office. With the stakes so high for patrons in a proposed closing, every effort should be taken to ensure due process and a fair and transparent experience.

There is no dispute that the Postal Service adhered to the applicable procedures regarding notice of the proposed closing and a community meeting. The Petitioners' ably address the consistency of the Postal Service's actions with statutory considerations. These Reply Comments therefore focus on:

- the adequacy of the Postal Service's consideration of the effect on the community in terms of the number of local entities and projected growth; and
- the adequacy and transparency of the Postal Service's response to why Feura Bush was chosen as the replacement office.

A note on the Clarksville revenue profile is also offered.

A. Clarksville's Location

Clarksville is an unincorporated community in the town of New Scotland in Albany County, New York. It is about 17 miles southwest of Albany, the state capital. It is largely self-contained and, unlike many communities near a larger city, is not considered "suburban" Albany. As one respondent to the questionnaire states, "Unlike city post offices which were closed, our community is not physically connected to another. We are rather isolated in that regard. ..." AR Item No. 22 at 14. The

Petitioners, similarly, describe Clarksville as the urbanized center of a rural community. Petition at 8.

Clarksville celebrated its 175th birthday in 2008. Someone who attended an event recognizing that milestone said this the next day:

Last evening I was a guest at the 175th Birthday Celebration for the the Town of New Scotland hamlet of Clarksville. The first official name of this village was Bethlehem PO, and it was once a part of the Town of Bethlehem. It served as the first Post Office for the Town of Bethlehem and has a very rich heritage. On April 16, 1833 it was named after Adam A. Clark, a prominent resident and innkeeper. Adam Clark was a veteran of the War of 1812, and served as the Town's Postmaster.⁸ . . .

The Clarksville Historical Society also notes that the anniversary was celebrated with a special pictorial cancellation. AR Item No. 22 at 87. See *also* Petition at 8.

B. Erroneous Estimate of Number of Businesses and Organizations and Anticipated Growth

The Fact Sheet and the Final Determination in the Administrative Record filed in this case identify two churches and six businesses in Clarksville. AR, Item Nos. 18 and 47. Even a cursory review of the record reveals that this estimate is not only wrong, but is seriously off the mark. The sign-in sheet at the community meeting, responses to the questionnaire, and related comments clearly reflect, on their face, that there is much more commercial and nonprofit activity in the immediate vicinity than the estimate

⁸ <http://blog.timesunion.com/bethlehem/47/clarksvilles-175th-birthday-celebration/>. See AR Item No. 22 at 94 for additional information on the early postal history of the community.

indicates. Moreover, this is the case even without considering the information provided in the Notice of Intervention filed by the Albany County Sheriff's office.

It appears that some nearby “bricks and mortar” businesses were inexplicably ignored, and that home-based businesses and organizations, such as Susan Dee Associates and the well-known Clarksville Historical Society, were not considered eligible for a “count” that appears to have been an important factor in the decision to close the Clarksville Post office. The following table provides some comparative listings of businesses and other entities in Clarksville that rely on the Post Office.

Table 1
Comparison of Reported Businesses and Organizations
In Clarksville, New York

Column A	Column B	Column C
Postal Service's Estimate (AR Item No. 13-- at 1 and AR Item No. 47 at 6)	Other Sources, including AR	Revised – AR, Notice of Intervention and Petitioners' Filings
Clarksville Elementary School	School Closed (but see Column C for expected replacement)	Albany County Sheriff's Office
Clarksville Community Church	Clarksville Community Church	Clarksville Community Church
Super Oil	Super Oil	Super Oil
Master Seal of Albany	Master Seal of Albany	Master Seal of Albany
Matt's Sons Industrial	Matt's Sons Industrial	Matt's Sons Industrial
Heldeberg Siding Inc.	Heldeberg Siding Inc.	Heldeberg Siding Inc.
Dunsten Painting	Dunsten Painting	Dunsten Painting
Onesquethaw Volunteer Fire Company, Inc.	Onesquethaw Volunteer Fire Company, Inc.	Onesquethaw Volunteer Fire Company, Inc.
	Onesquethaw Reformed Church	Onesquethaw Reformed Church
	Jake Moon (Restaurant)	Jake Moon (Restaurant) (Brief at 6)
	Quix Mart	Quix Mart (Brief at 6)
	Susan Dee Associates	Susan Dee Associates (AR Item 22 at 21-22)
	Adam Duan/ Franciscan Ecology Center	Adam Duan/ Franciscan Ecology Center (AR Item 22 at 33-34)
	Kevin Besther	Kevin Besther AR Item 22 at 23-24
	Clarksville Historical Society	Clarksville Historical Society AR Item 22 at 85-94
	Meadow Brook Farms Dairy	Meadow Brook Farms Dairy AR Item 22 at 97-100
	Peter Henner Law Offices	Peter Henner Law Offices AR Item 22 at 159-161
	Clarke Heating and Cooling	Clarke Heating and Cooling AR Item 22 at 201-202
	Joseph T. Hogan Appliance and Electric Service	Joseph T. Hogan Appliance and Electric Service AR Item 22 at 209-210
	Onesquethaw Union Cemetery	Onesquethaw Union Cemetery AR Item 22 at 211
	J&S Automotive	J&S Automotive AR Item 24 at 1
	Canon Law Professionals	Canon Law Professionals

	AR Item 38 at 12.
--	-------------------

The preceding table does not include the Eastern Competitive Trail Ride Association, although its membership chair (Marilyn Miles) is one of the petitioners. Her response to the questionnaire states that she receives several hundred checks annually in memberships for several organizations and mails out several hundred receipts for these memberships. AR Item No. 22 at 134. However, Columns B and C clearly list more businesses and organizations than Column A, which the Postal Service relied on.

No firm estimate of the volume these additional entities generate is available, but the Administrative Record shows that many are steady users of the Clarksville Post Office. Susan D. Associates, for example, states that the company has made a commitment to purchase all supplies from our local PO. *Id.* at 22. The president of the Clarksville Historical Society (P.O. Box 91) estimates that his group spends about \$800 a year at the Clarksville Post Office for a quarterly newsletter, mailings to members, an annual raffle ticket mailing, Clarksville Heritage Day mailings, thank you letters, donation receipts, and other mailings, including coffee mugs and historical booklets. He also says the Society is working on the Clarksville Post Office's 200th anniversary celebration, scheduled for June 27, 2012. *Id.* at 87. Kevin Besther states: "We have a business and work from our home and mail approx[imately] 400 letters a week at the Clarksville P.O. Our stamps are printed via Stamps.com. ..." *Id.* at 24. Meadow Brook Farms Dairy affirmatively notes that it sends out weekly billings and receives packages for business and home. *Id.* at 99.

It is clear that in this case, as in *Innis*, the record can be characterized as including "contested" claims about the number of businesses and organizations in Clarksville, and what this means for future growth. The weight of the evidence, even when limited to materials compiled by the Postal Service for the express purpose of evaluating the appropriateness of its decision to close Clarksville, supports the

Petitioners' position. The Sheriff's Office relocation points to more usage of the local post office and community growth. With so much at stake for the patrons of this office, this case should be remanded to the Postal Service. A remand would be foster the interests of the general public in due process and in the accuracy of the record.

C. Adequacy of Response to Community Inquiries about the Selection of Feura Bush as the Replacement

The Postal Service acknowledges that customers asked why their post office was being discontinued while others were retained. AR Item No. 47 at 3 (Concern No. 2). Its response is: "Post offices are reviewed on a case-by-case basis. When there is a vacancy in a small office, it is customary to conduct a study of the business activity and investigate the feasibility of providing service by alternate means. *Id.* (Response to Concern No. 2)." However, many questionnaire responses clearly indicate that, quite apart from the question of distance to the replacement office, many patrons state that their typical travel patterns take them in a direction other than Feura Bush. For example, in response to Question No. 2 in the Postal Service Customer questionnaire, which asks "Do you pass another Post Office during business hours while traveling to or from work, or shopping, or for personal needs" (or to other parts of the questionnaire), here is what some patrons had to say:

Table 3
Comments regarding Feura Bush as an Replacement Office

Comment	Source
Once a week I drive into Delmar and pass that P.O.”	AR Item No. 22 at 5.
“... Feura Bush is the opposite direction for us.”	AR Item No. 22 at 6.
“Voorheesville and Delmar during weekly shopping.”	AR Item No. 22 at 7.
“Delmar Post Office.”	AR Item No. 22 at 9.
“Delmar, Slingerlands.”	AR Item No. 22 at 138.
“... Slingerlands, Delmar, Colonie, etc.	AR Item No. 22 at 138
“Feura Bush is 5 miles out of my way.”	AR Item No. 22 at 12.
“... Feura Bush ... is not on my way to any place”	AR Item No. 22 at 14.
“Feura Bush is completely inconvenient.”	AR Item No. 22 at 18.
“I am close to Voorheesville and Slingerlands—use them occasionally.”	AR Item No. 22 at 25.
“Slingerlands.”	AR Item No. 22 at 29.
“Pass Delmar PO almost daily.”	AR Item No. 22 at 31.
“Slingerlands.”	AR Item No. 22 at 57.
“Delmar NY.”	AR Item No. 22 at 77.
“Delmar , NY 12054.”	AR Item No. 22 at 79.
“Very few people from Clarksville travel past the Feura Bush Post Office. Personally we never go by it.”	AR Item No. 22 at 112.
“Feura Bush is not far by miles from Clarksville But most people, who live in Clarksville, rarely travel to Feura Bush. For Clarksville residents, much of their traffic is to the northeast into Bethlehem and the Albany area,”	AR Item No. 22 at 130.
“Feura Bush is out of our way.”	AR Item No. 22a 178.
“Sometimes I shop in Delmar and pass that P.O.”	AR Item No. 22 at 187.
“Pass Delmar PO on way to work at 7:30 a.m.”	AR Item No. 22 at 193.
“Feura Bush is not open when I go to work in the	AR Item No. 22 at 194.

morning and is closed before I get off work at night.”	
--	--

Many questions or concerns customers pose in “A” dockets lend themselves to a standard response. Providing stock responses in those instances is a reasonable way for the Postal Service to handle this part of the closing process. However, it is also the case that some questions deserve a more tailored response. Two of these are: “Why is our post office being closed?” and “Why did you select Post Office X as the replacement office?” As the preceding excerpts from the Administrative Record make clear, “Why Feura Bush” and “Feura Bush is out of the way” were routine responses to questionnaires. There is no indication how the Postal Service gave consideration to these legitimate questions. Due process requires that the Postal Service provide something other than a stock response to these questions.

In this case, the response to “Why Clarksville?” is a stock (and limited) answer: the postmaster vacancy and the ability to provide regular and effective service alternate means. The postmaster vacancy is a red herring, of sorts, as this triggers most closing studies. The Petitioners clearly state that they question the “effective” aspect of the proposed replacement options. Moreover, under the Postal Service’s view, it seems that almost any alternative service qualifies as “regular and effective” as long as there is the possibility of at least minimal contact with a postal employee or agent during the day or week. Other factors appear to be a distance second.

The response to “Why Feura Bush” is non-responsive. The Postal Service presumably has quantitative (and perhaps qualitative) reasons for having concluded that Feura Bush should be the replacement office, notwithstanding repeated questionnaire responses indicating that other nearby communities are the ones more frequently visited by Clarksville patrons.⁹ It is in the interests of the general public for

⁹ Materials in the Postal Service’s own Administrative Record show that another post office (Westerlo) is closer by .7 of a mile. AR Item No. 4 at 1. The slightly shorter distance may not mean that it should be a replacement office, but there is no indication why it was not considered. The indications that Delmar is on many Clarksville patrons’ routes lends support to consideration of that office as a replacement, even if it is farther away.

the Postal Service to be as transparent as possible about its replacement office logic in every “A” case. It presents no such logic here, despite numerous expression of interest on the part of Clarksville patrons, and this omission is a denial of due process.

D. Note on Revenue

Patrons of the Clarksville apparently expressed some surprise over the reported revenue decline, as Joseph T. Hogan notes that some of the patrons had met and, as he reports, “... were shocked that the Clarksville Post Office is operating at a loss.” AR Item No. 22 at 210. He suggests that there may have been some fall off due to the loss of a postmaster and inadequate training for the OIC. *Id.* However, the record may also provide some explanation for declining revenue: Kevin Bestler states that he mails about 400 letters a week at the post office. AR Item No. 22 at 24. This estimate may be borne out, at least in part, in the Postal Service’s Survey of Dispatched Mail, which shows 400 First-Class letters mailed on Monday, March 14, 2011. AR Item No. 12. Interestingly, however, Mr. Bestler also states that he purchases postage for his mailings via Stamps.com. *Id.* The undersigned’s familiarity with how the Postal Service records revenue received from Stamp.com is limited, but the impression is that Mr. Bestler’s purchases are not “credited” to the Clarksville Post Office. While this may be appropriate for general accounting purposes, it creates a problem because some part of Clarksville’s declining revenue may be traceable his (and others’) use of Stamps.com or other postage vendors. This creates the potential for inadvertent loss of a post office, despite active and growing use, and opens the process to manipulation.

The possibility that the revenue profile may be artificially deflated is even more reason to remand this case where there is relative certainty that the estimate of businesses and organizations is faulty.

VI. CONCLUSION

Review of the Clarksville Administrative Record and other submissions in this case leads to the conclusion that the Postal Service's assessment of the effect on the community falls short of established standards and compromises due process. In particular, the Postal Service's original estimate of businesses and organizations was clearly shown to be seriously misleading in the Postal Service's own compilation of materials (meeting roster and responses to questionnaires). Numerous active users of the Postal Service were inexplicably omitted.

In addition, the Postal Service has not adequately addressed why Feura Bush was selected, either over Clarksville or over another nearby office. In this case, the interest in an answer to this question was not muted; it was patently clear on the face of responses to questionnaires and in related comments.

For these reasons, the Public Representative concludes that the Postal Service's decision to close the Clarksville Post Office was arbitrary and capricious with respect to several material considerations, and is not supported by substantial evidence with respect to these points. The Commission, in line with its decision in *Innis*, should remand this case to the Postal Service for further consideration.

Respectfully submitted,

Patricia A. (Pat) Gallagher
Public Representative in Docket No.A2011-81

901 New York Avenue NW
Washington DC 20268-0001
(202) 789-6824 Fax (202) 789-6861
pat.gallagher@prc.gov